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January 5, 2024

By Email

Molly Wells
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New Orleans, Louisiana 70170

Re: *In Re FTX Currency Exchange Collapse Litigation*
Case No. 1:23-md-03076-KMM

Counsel:

We write on behalf of Temasek Holdings (Private) Limited (“Temasek Holdings”) and Temasek International (USA) LLC (“Temasek USA,” and together with Temasek Holdings, “Defendants”), regarding Plaintiffs’ document requests, interrogatories, and deposition notices served on December 22, 2023.¹

¹ As Plaintiffs recognize, ECF No. 280, Temasek Holdings still has not been properly served. Temasek Holdings’ participation in the meet and confer process, and its cooperation with jurisdictional discovery as ordered by the Court, does not waive any of its rights or objections in connection with its pending motions to dismiss. ECF Nos. 298, 300, 303.

The Court ordered the parties to conduct only “limited jurisdictional discovery” that must be completed by February 1, 2024. The Court’s order further made clear that this discovery should focus on the factual disputes Plaintiffs have purported to identify concerning “Defendant Temasek’s contacts with the forum state and the ‘purported corporate separateness between the Temasek entities.’” ECF No. 422 at 4 (quoting ECF No. 388 at 6–7). Nevertheless, on the afternoon of December 22, 2023—the Friday before the Christmas holiday—Plaintiffs served seven interrogatories, 46 request for production (“RFPs”), and a deposition notice upon each of Temasek Holdings and Temasek USA. *See* ECF No. 422 at 5–6; *see also* ECF No. 434.

Plaintiffs’ litany of broad-ranging discovery requests—which seek, among other things, every piece of paper in Defendants’ files related to FTX in any way, and every communication they have ever engaged in regarding FTX—are completely untethered from the limited jurisdictional discovery ordered by the Court. Rather, the requests are an improper attempt to circumvent the Court’s discovery stay and engage in comprehensive merits discovery that has not been permitted by the Court and is in no event realistic or feasible to conduct over the course of this month. Plaintiffs’ requests are improper on their face and plainly beyond the scope of the Court’s order. *See, e.g., Breckenridge Pharm., Inc. v. Red River Pharma, LLC*, 2006 WL 8433672, at *2 (S.D. Fla. Feb. 17, 2006) (denying jurisdictional discovery request that “unnecessarily delves into the merits of this action and is unnecessary for the determination of the existence of personal jurisdiction”). Both the Court’s order and case law forbid the unbridled fishing expedition made plain in Plaintiffs’ requests. *See, e.g., JMA, Inc. v. Biotronik SE & Co. KG*, 2013 WL 1402322, at *5 (S.D. Fla. Apr. 5, 2013).

Notwithstanding the overly broad and burdensome nature of Plaintiffs’ discovery requests, Defendants are willing to work with the Plaintiffs to identify a limited set of materials that may be relevant to the jurisdictional inquiry, which Defendants can reasonably provide by the Court’s deadline. *See* ECF No. 422 at 6 (“The Court will thus lift the discovery stay, but only as it pertains to the limited jurisdictional discovery that is subject to this Order.”). Accordingly, Defendants identify below discovery requests with which they may feasibly comply by February 1, and which address the questions identified in the Court’s Order. Defendants believe that it will be most productive and efficient to engage in a cooperative process to identify requests consistent with the Court’s Order, rather than burdening the Court with needless discovery disputes. For the avoidance of doubt, the offer below is expressly conditioned on the parties’ reaching a comprehensive agreement regarding the scope of jurisdictional discovery, and is made solely in the spirit of compromise and in an effort to avoid burdening the Court. Further, Defendants do not waive, and expressly reserve, all objections to the discovery requests served by Plaintiffs, including those listed below.

Interrogatories: While Defendants have already provided sufficient sworn testimony in the form of affidavits—as to which Plaintiffs have raised no real factual dispute—as a compromise, Defendants are willing to provide answers to the following interrogatories. Defendants would agree to answer these interrogatories only in the event that Plaintiffs agree to forgo taking depositions of Temasek Holdings and Temasek USA. We do not believe that providing sworn testimony in multiple forms in such a compressed period of time is in any way justified, and instead would be both unduly burdensome and unnecessarily duplicative.

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- **INTERROGATORY NO. 1:** Temasek Holdings is willing to answer Interrogatory No. 1 by producing an organizational chart showing the relationship among the entities listed pursuant to Federal Rule of Civil Procedure 33(d).
- **INTERROGATORY NO. 2:** Both Temasek Holdings and Temasek USA are willing to answer Interrogatory No. 2 as it relates to themselves, the parties to this action.
- **INTERROGATORY NO. 3:** Both Temasek Holdings and Temasek USA are willing to answer Interrogatory No. 3 as it relates to themselves, the parties to this action, and to identify the directors, executives, and employees that had a role with respect to the enumerated activities.
- **INTERROGATORY NO. 4:** Both Temasek Holdings and Temasek USA are willing to answer Interrogatory No. 4.
- **INTERROGATORY NO. 5:** Both Temasek Holdings and Temasek USA are willing to answer Interrogatory No. 5 as it relates to themselves, the parties to this action.
- **INTERROGATORY NO. 6:** Both Temasek Holdings and Temasek USA are willing to answer Interrogatory No. 6 as it relates to themselves, the parties to this action.

Requests for Production: Despite the Court’s clear instructions to conduct *limited* jurisdictional discovery, Plaintiffs’ **forty-six** RFPs directed to each of Temasek Holdings and Temasek USA—which had nothing to do with the FTX investment—seek extremely broad-ranging merits discovery that no doubt would take several months to complete, even after substantial narrowing. Nevertheless, subject to a global agreement, Temasek Holdings is willing to search for and produce—to the extent they relate to Florida or California—non-privileged documents within its possession, custody, and control, to the extent any exist, for RFP 29 and RFP 37, which seek documents concerning certain interactions and meetings with SBF and others affiliated with FTX. Temasek Holdings will agree to search for such materials only to the extent that the parties reach agreement on a reasonable search protocol (including an agreed-upon custodian and a narrow set of search terms that returns a reasonable volume of documents for review). With respect to date range, Temasek Holdings agrees to search for documents dated between March 1, 2021 and October 31, 2022.

* * *

Defendants are available to meet and confer concerning the scope of limited jurisdictional discovery next week. Please let us know your availability at your earliest convenience.

Sincerely,

/s/ Nina Kovalenko
Nina Kovalenko

cc: David Boies
Joseph Kaye
Barbara Lewis
Jose Ferrer

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